IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.
SUIT NO.4387 OF 1996

Hongkong and Shanghai Banking
Corporation Limited ..Plaintiff.
Vs.
M/s. Bharat Petroleum Corporation Limited ..Defendant.
....
Mr. Y.B. Bhargavan i/b Mrs. Ratna Bhargavan for the Plaintiff.
Ms. Preeti Bakalkar i/b Crawford Bayley & Co. for Defendant No.1.
Mr. Tanwaya i/b M.K. Ambalal & Co. for Defendant No.13.
....

CORAM: **DR. D.Y. CHANDRACHUD, J.**
20th July, 2007.

P.C. :

1. The Suit has been instituted in order to seek the following reliefs :

i) a declaration that the shares specified in Exhibit A to the Plaint belong to the Plaintiff's client, Global Assessment Management Hongkong Ltd., A/c. Gam Asian Developing Markets Fund Inc. and that any transfer thereof is illegal, void and not binding on the Plaintiffs;

ii) for a direction to the Defendants to issue 48 duplicate share certificates each of 100 shares and totaling 4800 shares details of which have been furnished in Exhibit A;

iii) for an order of injunction restraining the Defendants from

effecting transfer of the said 4800 shares;

2. The claim of the Plaintiffs is that on 18th June, 1996 the Plaintiffs took delivery after purchasing 4800 shares of the First Defendant on behalf of their client Global Management Hongkong Ltd., A/c. Gam Asian Developing Markets Funds Inc. The share certificates, as listed in Exhibit A are stated to have been handed over to the Plaintiffs. The Plaintiffs handed over the share certificates to a courier on 21st June, 1996 for lodging to the First Defendant for transfer. The Plaintiffs were informed by the courier company that one of the employees had disappeared with the shares contained in the packet upon which a complaint has been lodged with Palton Road Police Station. The Plaintiffs called upon the First Defendant to stop further transfers to which the First Defendant responded on 14th August, 1996. On 23rd October, 1996 the First Defendant called upon the Plaintiffs to move the appropriate Court for reliefs. On the date of the suit it has been stated that 48 share certificates which were stolen were being circulated in the market. By a letter 11th November, 1996 the First Defendant agreed to issue 31 share certificates to the Plaintiffs.

3. On 24th December, 1996 an ad interim order was passed by a Learned Single Judge of this Court. On 28th April, 1997 a further order was passed by this Court by which the Plaintiffs were allowed to advertise in the newspapers inviting objections, if any. This was in view of the fact that the First Defendant had stated in its reply that 15 original share certificates of jumbo transfer forms had not been received by the First Defendant for transfer and 16 share certificates had similarly not been received by the First Defendant. Since within two weeks no claim was received by the First Defendant, the First Defendant was directed by the order of the Court to register the transfer in favour of the Plaintiffs. Accordingly the Court has been informed that duplicate share certificates covering a total of 30 share certificates (3100 shares) have been issued to the Plaintiffs. The dispute now survives only insofar as the remaining 17 share certificates covering 1700 shares.

4. The First Defendant has filed its written statement and has submitted to the orders of the Court. Defendants 2 to 13 have not filed a written statement. In fact, Counsel appearing for the Plaintiffs states that no relief is now sought against Defendant

No.13.

5. The Plaintiffs have filed an affidavit dated 4th July, 2007 together with a compilation of the original documents inter alia disclosing a contract note for the purchase of 4800 shares of the First Defendant, the letter dated 24th June, 1996 to the First Defendant for transferring the shares and the correspondence exchanged with the First Defendant. The claim in the suit has been duly established on the basis of the documentary material on the record. The suit shall accordingly stand decreed in terms of prayer clause (a). There shall also be a decree in terms of prayer clause (b) as against the First Defendant.

6. It is made clear that since a total of 31 duplicate share certificates covering 3100 shares have already been issued to the Plaintiffs, the decree shall now be confined to the remaining 17 shares covering 1700 shares of the First Defendant. The suit is accordingly disposed of.